



City of Largo Agenda Item 5

Meeting Date
11/13/18

Presenter: Laura Thomas, Sustainability Coordinator

Department: AD – Administration

TITLE:

SINGLE-USE PLASTICS PRESENTATION

A single-use plastic can be defined as any plastic material that is designed to be used once in its same form and then disposed of or destroyed. Since the dramatic proliferation of these items, a similar trend in natural resource consumption has been seen, as well as an increase in the negative impact of plastics on our environment. Aquatic environments are where the most critical environmental effects can be seen, including in Tampa Bay, which contains over nine trillion pieces of microplastics. These microscopic pieces of plastic are created as non-disintegrating plastic items, such as bottles and straws, break down into smaller particles. Larger pieces of plastic litter are also a concern to stormwater systems, water quality, wildlife and subsequently the local environmental tourism economy.

In response to the increasing impacts of single-use plastics many communities across the country, state and county are introducing ordinances to regulate certain types of these plastics to mitigate future damages. Over 50 communities in the State of Florida support restrictions on certain single-use plastics, with over a dozen having ordinances restricting these items either on City property, community-wide, or both. The City of Largo has several options to restrict these materials, although State preemption blocks the ability to regulate many single-use plastics.

Focusing future outreach efforts, not only on the importance of recycling but also of resource reduction, will help to support eight indicators in the Largo Environmental Action Plan (LEAP). Developing single-use plastic reduction practices that align with LEAP will ensure operational efficiencies and strengthen the shared regional approach to waste management. The State has enacted several restrictions on the ability of local governments to regulate single-use plastics. These restrictions are summarized in the attached legal memo.

Budgeted Amount: \$0.00 **Budget Page No(s):** N/A **Available Amount:** \$0.00 **Expenditure Amount:** \$0.00

Additional Budgetary Information: N/A

Funding Source(s): N/A **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:** N/A

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A Sustainability Plan

Potential Motion/ Direction Requested: INFORMATIONAL ONLY

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Attachments: Legal Memo

Question: What, if anything, can the City of Largo do to regulate single use plastics?

Summary: As it stands now, there is a small window of opportunity for local government to regulate single use plastics:

1. Plastics used by food establishments (including food products, food service, and food outlets) that are not polystyrene (#6 plastic);
2. Plastics that are not auxiliary containers, wrappings, or disposable plastic bags; and not packaging of products;
3. Use of polystyrene (#6 plastic) by individuals on public property, temporary vendors on public property, or entities engaged in a contractual relationship with the City.

What has Legislature preempted?

1. Packaging of Products manufactured or sold in the state.
2. Any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of auxiliary containers, wrappings, or disposable plastic bags.
3. The regulation of the use or sale of polystyrene (#6) products by food establishments.

• **Relevant Statutes:**

- **Fla. Stat. §403.708(9)** —The packing of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, other than as expressly provided in this act.
 - “Packaging of products” is not defined
- **Fla. Stat. §403.7033**—The Legislature finds that prudent regulation of recyclable materials is crucial to the ongoing welfare of Florida’s ecology and economy. As such, the Department of Environmental Protection shall undertake an analysis of the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments. The analysis shall include input from state and local government agencies, stakeholders, private businesses, and citizens, and shall evaluate the efficacy and necessity of both statewide and local regulation of these materials. To ensure consistent and effective implementation, the department shall submit a report with conclusions and recommendations to the Legislature no later than February 1, 2010. Until such time that the Legislature adopts the recommendations of the department, no local government, local governmental

agency, or state government agency may enact any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags.

- Statute does not define “auxiliary containers, wrappings, or disposable plastic bags.”

- **Fla. Stat. §500.90**—The regulation of the use or sale of polystyrene products by entities regulated under this chapter (food services establishments) is preempted to the state. This preemption does not apply to local ordinances or provisions thereof enacted before January 1, 2016, and does not limit the authority of a local government to restrict the use of polystyrene by individuals on public property, temporary vendors on public property, or entities engaged in a contractual relationship with the local government for the provision of goods or services, unless such use is otherwise preempted by law.

- **Note:** No Florida Statute specifically address plastic cups, utensils, or straws which are not otherwise made of polystyrene (#6). Although most disposable cups and utensils are made from polystyrene (#6) and thus encompassed in the preemption under §500.90, many of straws are now being made with polypropylene (#5), which is how many communities have adopted regulations specifically aimed at plastic straws without triggering the preemption.